



**Rule(s) Review Checklist Addendum**  
(This form must be filled out electronically.)

**This form is to be used only if the rule(s) was/were previously reviewed, and has/have not been amended/repealed subsequent to that review.**

All responses should be in **bold** format.

Document(s) Reviewed (include title): **WAC 458-20-214 (Cooperative marketing associations and independent dealers acting as agents of others with respect to the sale of fruit and produce)**

Date last reviewed: **August 20, 1999**

Reviewer: **Margaret J. Partlow**

Date current review completed: **June 6, 2003**

Briefly explain the subject matter of the document(s): **WAC 458-20-214 (Rule 214) explains the application of the B&O and retail sales taxes to cooperative marketing associations and independent dealers who act as agents for others in receiving, buying, preparing for sale, packing, and selling fruit or produce. It explains that the B&O tax applies to these services except where performed for the growers of such products. It also explains the conditions under which charges for packing materials and supplies to growers are deductible for purposes of B&O tax.**

Type an "X" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

**1. Public requests for review:**

YES	NO	
	<b>x</b>	Is this document being reviewed at this time because of a public (e.g., taxpayer or business association) request?

If "yes," provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request.

**2. Related statutes, interpretive and/or policy statements, court decisions, BTA decisions, and WTDs:** (Excise Tax Advisories (ETAs), Property Tax Advisories and Bulletins (PTAs/PTBs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.)

YES	NO	
	<b>x</b>	Are there any statutory changes subsequent to the previous review of this rule that should be incorporated?
	<b>x</b>	Are there any interpretive or policy statements not identified in the previous review of this rule that should be incorporated? (An Ancillary Document



		Review Supplement should be completed for each and submitted with this completed form.)
	<b>x</b>	Are there any interpretive or policy statements that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	<b>x</b>	Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) subsequent to the previous review of this rule that provide information that should be incorporated into this rule?
	<b>x</b>	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) subsequent to the previous review of this rule that provide information that should be incorporated into the rule?
	<b>x</b>	Are there any changes to the recommendations in the previous review of this rule with respect to any of the types of documents noted above? (An Ancillary Document Review Supplement should be completed if any changes are recommended with respect to an interpretive or policy statement.)

If the answer is “yes” to any of the questions above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

**3. Additional information:** Identify any additional issues (other than those noted above or in the previous review) that should be addressed or incorporated into the rule. Note here if you believe the rule can be rewritten and reorganized in a more clear and concise manner.

**4. Listing of documents reviewed:** The reviewer need identify only those documents that were not listed in the previous review of the rule(s). Use “bullets” with any lists, and include documents discussed above. Citations to statutes, interpretive or policy statements, and similar documents should include titles. Citations to Attorney General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).

Statute(s) Implemented:

Interpretive and/or policy statements (e.g., ETAs, PTAs, and IAGs):

Court Decisions:

Board of Tax Appeals Decisions (BTAs):

Appeals Division Decisions (WTDs):

- **Det. No. 99-022, 19 WTD 542 (2000) (Income received by a fruit packer from the buyer for the “palletization” of fruit boxes does not qualify for the B&O tax exemption allowed for fruit packaging activities.)**



- **Det. No. 00-046, 19 WTD 971 (2000) (Interpreting RCW 82.04.050: Sales of liquid nitrogen applied directly on post-harvest cherries to prevent decay are not retail sales; sales of liquid nitrogen applied in a similar manner to asparagus are retail sales.)**
- **Det. No. 00-107, 20 WTD 98 (2001) ((1)A fruit packer who receives and temporarily stores fruit in its bins is taxable under the service and other activities classification of the B&O tax on receipts designated as “bin rental.” (2)Receipts derived from separately stated insurance charges to growers who own fruit stored in a warehouse, to cover the fruit packer’s premiums for losses to the contents of the warehouse, are not “reimbursements,” but taxable under the same classification as the receipts designated as warehouse charges. (3) Payments from a cannery to a fruit packer, which authorized the fruit packer to grade and accept fruit on behalf of the cannery, were subject to the B&O tax because the taxpayer was paid to accept the fruit for the cannery, not for the growers.**

Attorney General Opinions (AGOs):

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

## 5. Review Recommendation:

- |                     |   |
|---------------------|---|
| _____               | <b>Amend</b>  |
| _____               | <b>Repeal/Cancel</b> (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.) |
| <u>  <b>x</b>  </u> | <b>Leave as is</b> (Appropriate even if the recommendation is to incorporate the current information into another rule.)                              |
| _____               | <b>Begin the rule-making process for possible revision.</b> (Applies only when the Department has received a petition to revise a rule.)              |

**Explanation of recommendation:** Provide a brief summary of your recommendation, whether the same as or different from the original review of the document(s). If this recommendation differs from that of the previous review, explain the basis for this difference.

**The rule is correct and effective as currently written.**

If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, court decisions).

**There is no need to revise Rule 214 at this time.**



**6. Manager action:** Date: 7/8/03

AL Reviewed and accepted recommendation

Amendment priority:

       1  
       2  
       3  
       4